

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSHUA JESSE CANTU,

Plaintiff,

v.

P. WARD, ET. AL.,

Defendants.

Case No. 1:20-cv-386-NONE-HBK

ORDER REFERRING CASE TO ADR AND  
STAY OF CASE FOR 90 DAYS

(Doc. No. 26)

Plaintiff Joshua Jesse Cantu initiated this action proceeding *pro se* by filing a civil rights action under 42 U.S.C. § 1983. (Doc. No. 1). Plaintiff proceeds on his First Amended Complaint alleging an Eighth Amendment claim arising from excessive use of force when correctional officials allegedly beat Plaintiff and others failed to intervene or manage their subordinates. (Doc. No. 7).

By way of background, on September 9, 2020 the former-assigned magistrate judge issued Findings and Recommendations that Plaintiff be permitted to proceed on his Eight Amendment excessive force claims against John Doe 1, P. Ward, B. Xiong, P. Dunn, and John Doe 2 but no other claims set forth in his First Amended Complaint. (Doc. No. 9 at 6). The district court adopted the Findings and Recommendations. (Doc. No. 12). Service was directed on the named defendants and Plaintiff was afforded an opportunity to identify the John Doe defendants. (Doc. Nos. 13, 14). D. Cortez and J. Soto were identified and substituted as the John Doe Defendants

1 and served. (Doc. Nos. 17, 18). Defendants filed an Answer to Plaintiff First Amended  
2 Complaint on October 13, 2021. (Doc. No. 26).

3 The court refers all civil rights cases filed by prisoners to Alternative Dispute Resolution  
4 (ADR) to attempt to resolve such cases more expeditiously and less expensively. In appropriate  
5 cases, defense counsel from the California Attorney General's Office have agreed to participate in  
6 ADR. No claims, defenses, or objections are waived by the parties' participation.

7 The court, therefore, STAYS this action for 90 days to allow the parties to investigate  
8 Plaintiff's claims, meet and confer, and participate in an early settlement conference. The court  
9 presumes that all such cases assigned to the undersigned will proceed to a settlement conference.  
10 However, if after investigating Plaintiff's claims and meeting and conferring either party finds that  
11 a settlement conference would be a waste of resources, that party may opt out of the early settlement  
12 conference and the Court will issue a Case Management and Scheduling Order.

13 Accordingly, it is **ORDERED**:

14 1. This action is **STAYED for 90** days to allow the parties an opportunity to settle their  
15 dispute before the discovery process begins. No pleadings or motions may be filed in this case during  
16 the stay. The parties shall not engage in formal discovery, but they may engage in informal discovery  
17 to prepare for the settlement conference.

18 2. **Within 30 days** from the date of this order, either party may file notice indicating  
19 their belief that settlement is not achievable at this time. If either party opts out of the settlement  
20 conference the court will issue an amended discovery and scheduling order.

21 3. If neither party opts out, the assigned Deputy Attorney General SHALL **within 45**  
22 **days** of this Order contact the undersigned's Courtroom Deputy Clerk at kdunbar-  
23 kari@caed.uscourts.gov to schedule the settlement conference. Before doing so, defense counsel  
24 should confirm with Plaintiff's counsel that Plaintiff will have access to Zoom on their proposed  
25 date for the settlement conference.

26 4. If the parties reach a settlement during the stay of this action, they SHALL file a  
27 Notice of Settlement as required by Local Rule 160.

28 5. The Clerk of Court shall serve Deputy Attorney General Amanda Waters and

1 Supervising Deputy Attorney General Lawrence Bragg with a copy of Plaintiff's First Amended  
2 Complaint (Doc No. 7), the Findings and Recommendation (Doc. No. 9) and this Order.

3 6. The parties are obligated to keep the court informed of their current addresses  
4 during the stay and the pendency of this action. Changes of address must be reported promptly in  
5 a Notice of Change of Address. *See* Local Rule 182(f).

6  
7 Dated: October 19, 2021

  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE